

an air navigation facility available for the use of civil aircraft on the suitability of the facility for that use.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1190.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
44708	49 App.:1426 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 606 (1st sentence), 72 Stat. 779.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The word “Administrator” in section 606 (1st sentence) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g).

§ 44709. Amendments, modifications, suspensions, and revocations of certificates

(a) REINSPECTION AND REEXAMINATION.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, design organization, production certificate holder, air navigation facility, or air agency, or reexamine an airman holding a certificate issued under section 44703 of this title.

(2) NOTIFICATION OF REEXAMINATION OF AIRMAN.—Before taking any action to reexamine an airman under paragraph (1) the Administrator shall provide to the airman—

(A) a reasonable basis, described in detail, for requesting the reexamination; and

(B) any information gathered by the Federal Aviation Administration, that the Administrator determines is appropriate to provide, such as the scope and nature of the requested reexamination, that formed the basis for that justification.

(b) ACTIONS OF THE ADMINISTRATOR.—The Administrator may issue an order amending, modifying, suspending, or revoking—

(1) any part of a certificate issued under this chapter if—

(A) the Administrator decides after conducting a reinspection, reexamination, or other investigation that safety in air commerce or air transportation and the public interest require that action; or

(B) the holder of the certificate has violated an aircraft noise or sonic boom standard or regulation prescribed under section 44715(a) of this title; and

(2) an airman certificate when the holder of the certificate is convicted of violating section 13(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j–1(a)).

(c) ADVICE TO CERTIFICATE HOLDERS AND OPPORTUNITY TO ANSWER.—Before acting under subsection (b) of this section, the Administrator shall advise the holder of the certificate of the charges or other reasons on which the Administrator relies for the proposed action. Except in an emergency, the Administrator shall provide the holder an opportunity to answer the charges and be heard why the certificate should not be amended, modified, suspended, or revoked.

(d) APPEALS.—(1) A person adversely affected by an order of the Administrator under this section may appeal the order to the National Transportation Safety Board. After notice and an opportunity for a hearing, the Board may amend, modify, or reverse the order when the Board finds—

(A) if the order was issued under subsection (b)(1)(A) of this section, that safety in air commerce or air transportation and the public interest do not require affirmation of the order; or

(B) if the order was issued under subsection (b)(1)(B) of this section—

(i) that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require affirmation of the order; or

(ii) the order, as it is related to a violation of aircraft noise or sonic boom standards and regulations, is not consistent with safety in air commerce or air transportation.

(2) The Board may modify a suspension or revocation of a certificate to imposition of a civil penalty.

(3) When conducting a hearing under this subsection, the Board is not bound by findings of fact of the Administrator.

(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—

(1) IN GENERAL.—When a person files an appeal with the Board under subsection (d), the order of the Administrator is stayed.

(2) EXCEPTION.—Notwithstanding paragraph (1), the order of the Administrator is effective immediately if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately.

(3) REVIEW OF EMERGENCY ORDER.—A person affected by the immediate effectiveness of the Administrator’s order under paragraph (2) may petition for a review by the Board, under procedures promulgated by the Board, of the Administrator’s determination that an emergency exists. Any such review shall be requested not later than 48 hours after the order is received by the person. If the Board finds that an emergency does not exist that requires the immediate application of the order in the interest of safety in air commerce or air transportation, the order shall be stayed, notwithstanding paragraph (2). The Board shall dispose of a review request under this paragraph not later than 5 days after the date on which the request is filed.

(4) FINAL DISPOSITION.—The Board shall make a final disposition of an appeal under subsection (d) not later than 60 days after the date on which the appeal is filed.

(f) JUDICIAL REVIEW.—A person substantially affected by an order of the Board under this section, or the Administrator when the Administrator decides that an order of the Board under this section will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1190; Pub. L. 106-181, title VII, §716, Apr. 5, 2000, 114 Stat. 162; Pub. L. 108-176, title II, §227(c), Dec. 12, 2003, 117 Stat. 2532; Pub. L. 112-153, §2(c)(2), Aug. 3, 2012, 126 Stat. 1161; Pub. L. 115-254, div. B, title III, §393(a), Oct. 5, 2018, 132 Stat. 3325.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
44709(a)	49 App.:1429(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §609(a) (1st-7th sentences, 8th-last sentences less Administrator under title VII), 72 Stat. 779; Nov. 18, 1971, Pub. L. 92-159, §2(a), 85 Stat. 481; Nov. 27, 1971, Pub. L. 92-174, §6, 85 Stat. 492; Aug. 26, 1992, Pub. L. 102-345, §3(a)(1), 106 Stat. 925.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.
44709(b)	49 App.:1429(a) (2d sentence).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §609(b); added Nov. 18, 1971, Pub. L. 92-159, §2(a), 85 Stat. 481.
	49 App.:1429(b).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §611(e); added July 21, 1968, Pub. L. 90-411, §1, 82 Stat. 395; re-stated Oct. 27, 1972, Pub. L. 92-574, §7(b), 86 Stat. 1241.
	49 App.:1431(e) (words before 4th comma).	
44709(c)	49 App.:1655(c)(1).	
	49 App.:1429(a) (3d sentence).	
	49 App.:1431(e) (words between 4th and 5th commas).	
44709(d)(1) ..	49 App.:1655(c)(1).	
	49 App.:1429(a) (4th sentence).	
	49 App.:1431(e) (words after 4th comma).	
44709(d)(2) ..	49 App.:1429(a) (6th sentence).	
44709(d)(3) ..	49 App.:1429(a) (5th sentence).	
	49 App.:1655(c)(1).	
44709(e)	49 App.:1429(a) (7th sentence).	
	49 App.:1655(c)(1).	
44709(f)	49 App.:1429(a) (8th-last sentences less Administrator under subch. VII).	
	49 App.:1655(c)(1).	

In this section, the word “Administrator” in section 609(a) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 779) is retained on authority of 49:106(g). The words “modifying”, “modify”, and “modified” are omitted as surplus.

In subsection (a), the words “airman holding a certificate issued under section 44703 of this title” are substituted for “civil airman” for clarity.

In subsection (b)(1), before subclause (A), the words “certificate issued under this chapter” are substituted for “type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate (including airport operating certificate), or air agency certificate” to eliminate unnecessary words.

In subsection (b)(2), the words “in his discretion” and “regarding the use or operation of an aircraft” in 49 App.:1429(b) are omitted as surplus.

In subsection (c), the words “cases of” in 49 App.:1429(a) are omitted as surplus.

In subsection (d)(1), before clause (A), the word “adversely” is substituted for “whose certificate is” in 49 App.:1429(a), and the words “an opportunity for a” are added, for consistency in the revised title and with other titles of the United States Code. The words “of the FAA” in 49 App.:1431(e) are omitted as surplus.

In subsection (d)(2), the words “consistent with this subsection” are omitted as surplus.

In subsection (d)(3), the word “Administrator” is substituted for “Federal Aviation Administration” because of 49:106(b) and (g).

In subsection (e), before clause (1), the words “the effectiveness of” are omitted as surplus.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-254 designated existing provisions as par. (1), inserted heading, and added par. (2).

2012—Subsec. (d)(3). Pub. L. 112-153 struck out “but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law” after “Administrator”.

2003—Subsec. (a). Pub. L. 108-176 inserted “design organization, production certificate holder,” after “appliance.”.

2000—Subsec. (e). Pub. L. 106-181 amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “When a person files an appeal with the Board under subsection (d) of the section, the order of the Administrator is stayed. However, if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately—

“(1) the order is effective; and

“(2) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.”

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

§ 44710. Revocations of airman certificates for controlled substance violations

(a) DEFINITION.—In this section, “controlled substance” has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATION.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking an airman certificate issued an individual under section 44703 of this title after the individual is convicted, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), of an offense punishable by death or imprisonment for more than one year if the Administrator finds that—

(A) an aircraft was used to commit, or facilitate the commission of, the offense; and

(B) the individual served as an airman, or was on the aircraft, in connection with committing, or facilitating the commission of, the offense.

(2) The Administrator shall issue an order revoking an airman certificate issued an individual under section 44703 of this title if the Administrator finds that—